

REMARKS

Rejected claim 4 has been cancelled without prejudice.

Claims 1, 2, 5, 9, 11, 30 and 31 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Yates et al '270. This rejection is respectfully traversed with respect to these claims as amended herein.

These claims as amended variously recite “a pair of yoke-shaped members mounted in spaced substantially plane parallel array, with each member formed as a substantially planar sheet including tines extending distally with a slotted opening extending inwardly between tines of the yoke from a forward edge thereof, and with the slotted openings of the members substantially transversely aligned to receive therein the tissue to be treated” and “a cutter mounted intermediate the spaced members for movement in a plane parallel to and spaced from the members between an open configuration in which the cutter is displaced from obstructing transverse alignment of the slotted openings, and a closed configuration in which a cutting edge of the cutter passes through the transverse alignment of the slotted openings for transversely severing tissue disposed in the slotted openings and across the spacing of the members,” or “a pair of yoke-shaped members mounted in spaced array, with each member operable as an electrode of one polarity or other and including a slotted opening extending inwardly between tines of the yoke from a forward edge thereof, and with the slotted openings of the members substantially transversely aligned.”

In addition, the dependent claims are further limited by such specific recitations as “a mounting structure disposed at the distal end of an elongated body to support the members in spaced array with the slotted openings substantially aligned in a direction along an elongated axis of the body, the mounting structure also supporting the cutter for movement intermediate the member,” or “the width of each of the slotted openings convergingly tapers inwardly from the forward edge,” or “the cutter includes a contoured surface for engaging a reference surface to transform translational movement of the cutter into translational and lateral movement relative to the anvil,” or “the contoured surface of the cutter includes an edge thereof proximally remote from the cutting edge disposed to engage the reference surface that is fixed relative to the body for urging the cutting edge toward the anvil in response to translational motion of the cutter in a direction toward the proximal end of the body,” or “the reference surface is disposed to resiliently bias the cutter toward the anvil in engagement with at least a portion of the contoured surface of the cutter.”

These aspects of the claimed invention facilitate severing tissue structures such as vessels that are stabilized for transverse severing by being positioned transversely within the slotted openings of slotted yoke members, without having to be grasped or pinched, for transverse and lateral cutting through such a positioned tissue structure via a cutter mounted for movement in a plane between and parallel to

the members. Also, lateral movement of the cutter for transverse severing of the tissue structure promotes retaining the tissue structure within the slotted openings without having to grasp the tissue structure.

These aspects of the claimed invention are not disclosed or even suggested by the cited reference that relies upon grasping or pinching tissue with sufficient compressive force to promote electrocauterization of tissue compressed between jaws via an electrode 39 disposed in one jaw. And, even assuming *arguendo* the Examiner's extrapolated analysis of this reference to incorporate the jaws 32, 34 (or the sides thereof) as yoke-shaped members, they are not planar sheets nor operable as one electrode (of one or other polarity) per yoke-shaped member.

Nor is there any disclosure in Yates et al '270 of an anvil against which the cutter may engage tissue for transverse (and lateral) cutting.

Additionally, the Examiner's analysis of this reference is not supportable upon its disclosure regarding the anvil 18 which is a jaw that, by itself, cannot also be a yoke-shaped member.

In contrast, Applicants' claimed invention positions the cutter blade in a plane of substantially neutral field strength between the slotted yoke-shaped members, each operable at one or other polarity of the pair of bipolar electrodes. It is therefore respectfully submitted that the pending claims are not anticipated by, but instead are now patentably distinguishable over the cited art.

Favorable reconsideration is solicited.

Respectfully submitted,
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